

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALEX PEREZ-MARTINEZ,

Defendant.

No. 10-CR-4049-DEO

ORDER ACCEPTING REPORT
AND RECOMMENDATION
CONCERNING GUILTY PLEA

I. INTRODUCTION AND BACKGROUND

On June 16, 2010, a one count Indictment (Docket No. 2) was returned in the above-referenced case.

Count 1 of the Indictment charges that on about May 24, 2010, in the Northern District of Iowa, defendant, Alex Perez-Martinez, an alien citizen of Mexico, was found knowingly and unlawfully in the United States after having been removed from the United States to Mexico on about January 14, 2009. Defendant did not obtain the express consent of the Attorney General of the United States or his successor, the Secretary for Homeland Security (Title 6, United States Code, Section 202(3) and (4) and Section 557), to reapply for admission into the United States prior to re-entering the United States on an unknown date sometime in 2009.

Defendant's removal was subsequent to a conviction for an aggravated felony offense, to wit:

On about December 4, 2008, in the Iowa District Court for Sioux County, Alex Perez-Martinez was convicted of Identity Theft.

This was in violation of Title 8, United States Code, Sections 1326(a) and 1326(b)(2).

On July 22, 2010, defendant Alex Perez-Martinez appeared before Chief United States Magistrate Judge Paul A. Zoss and entered a plea of guilty to Count 1 of the Indictment.

In the Report and Recommendation (Docket No. 18, 07/22/2010), Chief United States Magistrate Judge Paul A. Zoss recommends that defendant Alex Perez-Martinez's guilty plea be accepted. No objections to Judge Zoss's Report and Recommendation were filed. The Court, therefore, undertakes the necessary review to accept defendant Alex Perez-Martinez's plea in this case.

II. ANALYSIS

A. Standard of Review

Pursuant to statute, this Court's standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge].

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner petitions, where objections are made as follows:

The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommendation decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

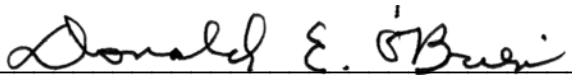
FED. R. CIV. P. 72(b).

In this case, no objections have been filed, and it appears to the Court upon review of Chief Magistrate Judge Zoss's findings and conclusions that there are no grounds to reject or modify them.

IT IS THEREFORE HEREBY ORDERED that this Court accepts Chief Magistrate Judge Zoss's Report and Recommendation (Docket No. 18), and accepts defendant Alex Perez-Martinez's

plea of guilty in this case to Count 1 of the Indictment
(Docket No. 2).

IT IS SO ORDERED this 20th day of August, 2010.

A handwritten signature in cursive script, reading "Donald E. O'Brien", is written over a horizontal line.

Donald E. O'Brien, Senior Judge
United States District Court
Northern District of Iowa